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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT TACOMA

8                   JOHN T. MCWHORTER,  
9    Plaintiff,  
10    v.  
11    DEPARTMENT OF CORRECTIONS, *et*  
12    al.  
13    Defendants.

14    CASE NO. 3:24-cv-05146-KKE-GJL

15    **ORDER ADOPTING REPORT  
16    AND RECOMMENDATION**

17    The Court has reviewed the Report and Recommendation of Magistrate Judge Grady J.  
18    Leupold, dated October 21, 2024, to which no objections have been filed. Upon consideration of  
19    the Report and Recommendation and the remainder of the record, the Court does hereby find and  
20    ORDER:

- 21    (1) The Court adopts the Report and Recommendation. Dkt. No. 17.  
22    (2) The Amended Complaint remains deficient and is therefore dismissed as Plaintiff  
23    (a) seeks relief only available in habeas corpus, (b) asserts claims that are barred by  
24    the doctrine in *Heck v. Humphrey*, 512 U.S. 477 (1994), (c) sues individuals and  
  entities that are immune from suit and may not be sued under 42 U.S.C. § 1983,  
  and (d) fails to state a viable claim for relief.  
  (3) Grounds (c) and (d) provide for dismissal with prejudice and constitute a strike  
  under 28 U.S.C. § 1915(g).

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1                             (4) The Clerk is directed to send copies of this Order to Plaintiff and to the Hon. Grady  
2                             J. Leupold.

3                             Plaintiff's motion to remove civil complaint (Dkt. No. 18) is terminated.

4                             **DATED** this 5th day of November, 2024.

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7                             Kymberly K. Evanson  
8                             United States District Judge

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